

STATE OF WISCONSIN Division of Hearings and Appeals

In the Matter of	
	DECISION

PRELIMINARY RECITALS

Pursuant to a petition filed November 9, 2015, under Wis. Stat., §49.45(5), to review a decision by the Rock County Dept. of Social Services to recover Medical Assistance (MA), a hearing was held on December 9, 2015, by telephone.

The issue for determination is whether petitioner was overpaid MA when she failed to report new employment.

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services 1 West Wilson Street, Room 651 Madison, Wisconsin 53703

By:

Rock County Dept. of Social Services P.O. Box 1649 Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # is a resident of Dane County. She formerly resided in Rock County.
- 2. Petitioner received BadgerCare Plus (BC+) and FoodShare (FS) in 2014. By a notice dated July 24, 2014, she was informed of her continued eligibility and the need to report to the agency if her monthly income went above \$972.50.

- 3. Petitioner went to work at several in September, 2014. By coincidence, the county sent her a notice of the need to complete a six-month report form for FS purposes by the end of September, 2014. Because she was working, petitioner simply did not fill out the form, thinking that FS and BC+ would end. By a notice dated September 17, 2014, the county informed petitioner that FS would end October 1 because she did not complete her six-month report, but it also said that there would be no changes to her health care.
- 4. Petitioner's monthly income from was well above the BC+ income limit of \$972.50. She never reported the income to the county agency.
- 5. After the county discovered the income via a state wage match, it determined that petitioner was overpaid BC+. By a notice dated October 29, 2015, the county informed petitioner that she was overpaid \$4,679.90 between October 1, 2014 and May 31, 2015 due to the failure to report her earned income, claim no.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

- (a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:
- 1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
- 2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
- 3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's <u>BC+ Handbook</u>, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." <u>Handbook</u>, App. 28.4.2.

While I fully understand petitioner's failure to report, and her mix-up with the FS discontinuance, the ultimate result is that petitioner was overpaid MA payments for eight months because she failed to report her income to the agency. The September, 2014 notice clearly stated that Health Care would continue, and that only FS was ending (while FS rules require a review every six months, MA rules require one only once per year). I cannot find any authority for the Division of Hearings and Appeals to overturn the overpayment here. Petitioner did not intend to receive MA for which she was not eligible, but the rules do not require the action to be intentional. The rules require only that the person fail to report the income.

CONCLUSIONS OF LAW

The county correctly determined that petitioner was overpaid MA because she failed to report new income that put her over the BC+ limit.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision.** Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison, Wisconsin, this 14th day of December, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 14, 2015.

Rock County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability